

CANCELLED

(1)

(3)

C.S. 201

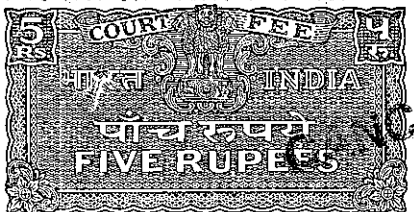
BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR.



CANCELLED

Single Bench

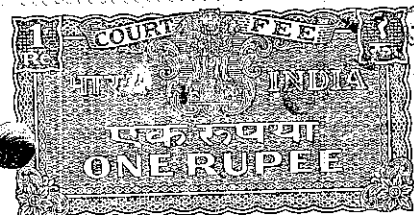
S.A.NO. 449 / 2004(SB).



CANCELLED

APPELLANT
DEFENDANT

: Magan Lal Sahu, aged about 54 years, S/o. Shyamlal Sahu, R/o. Sirgitti, Tah. & Distt. Bilaspur (Chhattisgarh).



CANCELLED

RESPONDENT
PLAINTIFF

V E R S U S

R: 1) Motim Bai, aged about 50 years, W/o. Bisahu ram Rajak, R/o. Sirgitti, Tah. and Distt. Bilaspur, (Chhattisgarh).

RESPONDENT
DEFENDANT

S: 2) State of Chhattisgarh, through : Collector, Bilaspur, (Chhattisgarh).

Appeal against eviction and possession.

Court fees paid Rs. 26.00 (as per decree in appeal).

P.R. No. 1992/24
Presented by Shri. Meera Javed
dated. 8-9-97

Second appeal w/s 100 of cpe

(34)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक S.A. 449/04 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	16-02-2005 Shri B.R.Ghosh, Counsel for the appellant. Shri R.K.Tiwari, Counsel for Respondent No. 1. Heard on the question of admission. This appeal has been preferred by appellant / defendant against the judgment and decree of eviction dated 20-08-2004 passed by X A.D.J. (FTC), Bilaspur confirming the judgment and decree dated 22-07-2003 passed by the Trial Court in Civil Suit No. 30-A/2001. The case of the plaintiff/respondent No. 1 before the trial Court was that she was the owner of the suit property admeasuring 0.02 acres situated in village Mouja Sirgitti marked as A,B,C,D,E and F in the plaint map which she had purchased through a registered sale deed and came in to possession of the same. The appellant encroached upon the portion of land marked in the plaint map, by constructing a boundary wall. The suit was filed on the ground that because of the encroachment done by the defendant her other land behind the suit land became inaccessible and she was not able to take the tractor to plough her field as a result of which loss of Rs. 2000/- was caused per annum. Further case of the plaintiff before the trial Court was that demarcation was done in the presence of the defendant on 28-10-1999 and in the said demarcation encroachment done by the defendant was established. In the written statement defendant No. 1 submitted that he purchased	

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मामला क्रमांक S.A. 449/04 सन् 200

आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	8 decimal of land in Khasra No. 621/1 and constructed a house by investing Rs. 10,00,000/-. Defendant No. 1 further submits that he purchased 0.01 Acre of land on 02-01-1995 and as such he was the owner of 0.09 Acres of land. Learned trial Court after framing issues decreed the suit by recording a finding that suit land admeasuring 0.02 acres was purchased by the plaintiff and she was in possession of the same. However the defendant started encroaching upon the same on 15-06-1999 by erecting a wall. The above encroachment made by the defendant was also established on demarcation done by the Patwari as per the direction by the Tehsildar and because of the said encroachment the way of the plaintiff was obstructed and he was unable to take the tractor to her field. It is further held that the plaintiff was entitled for damages @ Rs. 200/- per annum as also the vacant possession of the suit land. The above finding of the trial Court has subsequently been confirmed by the first appellate Court whereby the appeal of the defendant has been dismissed. Concurrent finding was recorded to the effect that the suit property was demarcated by the Patwari on 28-10-1999 in presence of defendant No. 1. The Panchnama prepared at the time of demarcation also bears the signature of the defendant No. 1. The demarcation report has been duly proved by Halka Patwari who has been examined as P.W.1. The other circumstance which has been relied upon against the	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक S.A. 449/04 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	defendant by the Court below is that though the defendant pleaded that he purchased the additional 0.01 acre of land adjacent to his house but he never produced any sale deed or document to show that he purchased the land. There is statement of Patwari in support of demarcation report wherein he has stated that defendant was found in possession of the excess land recorded in his name. Learned counsel for the appellant submits that both the Courts below have heavily relied upon the fact that the demarcation was done in the presence of defendant which bears his signature also and have ignored the fact that the defendant has categorically denied in his statement that the demarcation report bears his signature. This aspect has been dealt with in para 10 of the judgment of the trial court in which it has been recorded that all the witnesses of the plaintiff have stated that Panchnama - Ex.P.2 was prepared in presence of the defendant and he has not examined any witness to establish his absence. Similarly the appellate court has also recorded a finding in para 7 of the judgment that signature in Ex. P-1 in B to B portion tallies with the signature of the defendant in the written statement. Thus, it is a concurrent finding of fact recorded by both the courts below that the defendant encroached upon the land marked by A,B,C,D,E and F. Learned counsel for the appellant has not been able	4

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक 57 449/04 सन 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	to show that any substantial question of law is involved in this appeal for adjudication. After hearing learned counsel for the appellant I am of the opinion that no substantial question of law is involved in the appeal and as such the same is liable for dismissal. Accordingly, the appeal being devoid of substance is dismissed. Consequently, M.C.P. No. 1302/2004 and I.A. No. 2755/2004 stand disposed of.	Sd/- DHIRENDRA MISHRA Judge

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24/2004